

Before the
Federal Communications Commission
Washington, DC 20554

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|---|---|---------------------|
| In the Matter of |) | |
| |) | |
| Requests for Review of the |) | |
| Decision of the |) | |
| Universal Service Administrator by |) | |
| |) | |
| Austin Independent School District |) | File No. SLD-231412 |
| Austin, Texas |) | |
| |) | |
| Avon Local Board of Education |) | File No. SLD-222626 |
| Avon, Ohio |) | |
| |) | |
| Navajo Evangelical Lutheran Mission |) | File No. SLD-253928 |
| Rock Point, Arizona |) | |
| |) | |
| Vermont Academy |) | File No. SLD-245518 |
| Saxtons River, Vermont |) | |
| |) | |
| Schools and Libraries Universal Service |) | CC Docket No. 02-6 |
| Support Mechanism |) | |

ORDER

Adopted: May 14, 2004

Released: May 18, 2004

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration Requests for Review filed by the Austin Independent School District, Austin, Texas; Avon Local Board of Education, Avon, Ohio; Navajo Evangelical Lutheran Mission, Rock Point, Arizona; and Vermont Academy, Saxtons River, Vermont (together, the Applicants).¹ SLD adjusted the funding awarded to the Applicants in Funding Year 2001 because of failure to meet the Children's Internet Protection Act (CIPA) deadline.² The Requests for Review seek review of the decisions by the Schools and Libraries Division (SLD) of the Universal Service

¹ Letter from Larry Larson, Austin Independent School District, to Federal Communications Commission, filed November 19, 2002, Letter from Victor L. Babbini, Avon Local Board of Education on behalf of Avon Local School District, Federal Communications Commission, filed November 6, 2002, Letter from Pastor Floyd K. Hart, Navajo Evangelical Lutheran Mission, to Federal Communications Commission, filed June 13, 2003; Letter from Robert A. Barr, Vermont Academy, to Federal Communications Commission, filed October 15, 2002 (together, Requests for Review)

² See *id*

Administrative Company (Administrator). For the reasons set forth below, we deny the Requests for Review.

2 Applicants receiving discounts on Internet access and/or internal connections in Funding Year 2001 that received Funding Commitment Decision Letters (FCDLs) and started services prior to October 28, 2001 are subject to the October 28, 2001 deadline imposed by the CIPA. This CIPA certification deadline is statutory and cannot be waived.³ Certification of compliance with CIPA is required for each Funding Request Number (FRN) for Internet access or internal connections submitted.⁴ Applicants are required to know the relevant requirements of the E-rate program, and are ultimately responsible for the timely submission of the required forms.⁵ Hence, neither employee illness nor misunderstanding relieves applicants of their responsibility to comply with the Commission's requirements.⁶ Mistaken information from an SLD employee does not absolve an applicant from following the program requirements.⁷ The mere assertion that a letter was not received is insufficient grounds for reconsideration.⁸

3. Consistent with existing precedent as described above, the Telecommunications Access Policy Division denies the above-captioned Requests for Review.

4. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3,

³ 47 U.S.C. § 254(h)(5)(E)(i)(I), (h)(6)(E)(i)(I); see *Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 8182, paras. 10-14 (2001). See also *Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591 (Wireline Comp. Bur. 2002).

⁴ *Request for Review by Craig County Public Schools*, File No. SLD-241515, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 1718 (Wireline Comp. Bur. 2003).

⁵ *Request for Waiver by Elgin Independent School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-205168, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 15895 (Com. Car. Bur. 2001).

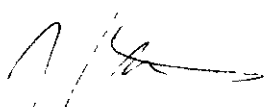
⁶ *Request for Review by East Brunswick Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-276585, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 19274 (Com. Car. Bur. 2001) (denying waiver request in case when employee handling forms resigned due to illness and new person did not know requirements); *Request for Review by St. Mary's Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC 471.12-07-99.02000002, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 12936, para. 5 (Com. Car. Bur. 2001) (denying a waiver request to the extent it is requested "due to misunderstanding of the program rules")

⁷ *In re Mary Ann Salvatoriello*, Memorandum Opinion and Order, 6 FCC Rcd 4705, 4707-08, para. 22 (1991) (citing *Office of Personnel Management v. Richmond*, 497 U.S. 1046 (1990)). See also *Request for Waiver by Ballard Community School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. SLD-2689111, SLD-268909, SLD-266579, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 15891 (Com. Car. Bur. 2001).

⁸ *Juan Galiano*, Memorandum Opinion and Order, 5 FCC Rcd 6442, 6443 (1990) ("[I]f the Commission were to entertain and accept unsupported arguments that letters mailed in Commission proceedings were not delivered .. procedural havoc and abuse would result.")

and 54.722(a), that the requests filed by Austin Independent School District, Austin, Texas, on November 19, 2002; Avon Local Board of Education, Avon, Ohio, on November 6, 2002; Navajo Evangelical Lutheran Mission, Rock Point, Arizona, on June 13, 2003; and Vermont Academy, Saxtons River, Vermont, on October 15, 2002; are DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Narda Jones

Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau